

Exhibit “A”

116

1 Q. Did you make them uncomfortable by forwarding
2 this to either one of them?

3 MR. JENNINGS: Objection to form.

4 THE WITNESS: You'd have to ask them.

5 BY MS. KIVITZ:

6 Q. Did anyone say anything to you about this
7 article?

8 A. No.

9 Q. Did either Debbie or Faith say, "I'm not
10 comfortable doing this"?

11 A. No. I didn't send it to Faith, I don't think.
12 I think I just sent it to Debbie.

13 Q. Do you remember a time that Faith said to you,
14 "Diane, get off your crusade. I don't want to be
15 involved anymore"?

16 A. After -- yeah. After she told me to go down
17 to HR and complain about Kathy. That's how much she
18 hated Kathy.

19 Q. Do you remember if Faith told you she didn't
20 want to be involved in your crusade anymore before or
21 after you sent this article to Debbie Shelmire?

22 A. I don't remember in respect to this article,
23 but I remember her saying that. But Faith is a good
24 instigator, and then she backs down.

25 Q. Okay. Now, when you called your husband and

117

1 you said, "Don't send me anything like this," did he
2 laugh? What was his reaction? What did he say?

3 A. "Okay."

4 Q. And did he laugh?

5 A. No. He just said, "Okay."

6 Q. Well, how did you know then that he sent it as
7 a joke?

8 A. Why else would he send it?

9 Q. Well, you're saying you construed it as a
10 joke; correct?

11 A. Yes.

12 Q. Did you think that, if Kathy Holtzman saw
13 this, she would construe it as a joke?

14 A. Maybe. I have no idea.

15 MR. JENNINGS: Objection to form.

16 THE WITNESS: She had a little bit of a
17 sense of humor. She used to send me silly things all
18 the time. Sent them to all of us.

19 BY MS. KIVITZ:

20 Q. Okay. Did you think it was appropriate
21 workplace etiquette to be forwarding an e-mail to your
22 co-worker concerning an employee who shot the boss he
23 wasn't getting along with?

24 A. Did I think it was appropriate etiquette? At
25 the time it was not sent for that reason. It was sent

118

1 because -- I thought my husband was an idiot for
2 sending it, and he's always telling me how busy he is.
3 And I sent it to Debbie and said, "This is what my
4 husband has time for when he's supposed to be
5 working."

6 Q. Okay. I'm going to ask you again if you
7 thought it was appropriate workplace etiquette --

8 A. To forward it? No.

9 Q. -- to send --

10 A. But that isn't why I forwarded it. I
11 forwarded it because me and Debbie were discussing
12 my -- something about my husband previously.

13 Q. Okay. You acknowledge that it would not be
14 appropriate workplace etiquette to forward something
15 like this as joke or not as a joke; correct?

16 A. No. But I had lots of things forwarded to me
17 that were inappropriate at the National Board.

18 Q. Okay. I'm just trying to ask you about this.
19 We're still on the same exhibit.

20 A. Right.

21 Q. Do you acknowledge that it was inappropriate
22 workplace etiquette to send this whether it was
23 considered a joke or not a joke?

24 MR. JENNINGS: Objection. Asked and
25 answered.

119

1 You can answer it once more.

2 THE WITNESS: I'm not going to answer it
3 again.

4 MR. JENNINGS: Answer it once more.

5 But that's it.

6 THE WITNESS: Okay.

7 I already told you I did not forward it
8 in a malicious manner. It was forwarded because I
9 didn't think it was appropriate for my husband to have
10 sent it to me.

11 BY MS. KIVITZ:

12 Q. So you didn't think it --

13 A. So I was just sharing it --

14 Q. -- was appropriate to receive it --

15 A. I was sharing it with these two women that I
16 talked to multiple times during the day and sat next
17 to me. So I didn't think it was appropriate for him
18 to have sent it to me, and I sent it to them because I
19 thought it was inappropriate.

20 Q. Okay.

21 A. But they were my friends. So that's why I --
22 I thought they were my friends. Obviously not. But
23 that's why I sent it.

24 Q. All right. So I just want to be clear.

25 Instead of sending a note to your husband not to do

120

1 this or erasing it and deleting it, instead you
 2 forwarded it on to a co-worker; correct?
 3 MR. JENNINGS: Objection to form.
 4 You can answer.
 5 THE WITNESS: I forwarded it to Debbie
 6 to make a point. Yes.
 7 BY MS. KIVITZ:
 8 Q. Okay. Now, you have filed a Complaint in this
 9 action, and you have made certain allegations. And I
 10 just want to be clear that we understand what your
 11 allegations are.
 12 A. Uh-huh.
 13 Q. In your Complaint you say at all times
 14 relevant plaintiff was supervised by Kathy Holtzman.
 15 Now today you've testified that you had other
 16 supervisors. I just want to be clear.
 17 A. I had no other official supervisors.
 18 Q. Okay.
 19 A. Officially Kathy was supposed to be my
 20 supervisor, but she did allow other people to give me
 21 work to do. That does not mean that I had other
 22 supervisors.
 23 Q. Okay. You contend in Paragraph 18 that,
 24 during the course of your employment, you were
 25 subjected to a pattern of discrimination including,

121

1 but not limited to, being assigned to minor clerical
 2 task not included in your job description?
 3 A. Yes.
 4 Q. Can you tell me what each of those minor
 5 clerical tasks were which you contend constituted
 6 discrimination?
 7 A. Fixing typos for people other than Kathy.
 8 Doing hole punching, copying, for people other than
 9 Kathy. Just an overall downgrading of what the
 10 position was supposed to be.
 11 Q. Okay. But if Kathy gave you those same jobs
 12 to do, that was not discrimination; correct? Doing
 13 them for Kathy was okay?
 14 A. I felt that, in light of the fact that she
 15 gave me no substantive work, that she was
 16 discriminating against me.
 17 Q. Okay. Maybe I misunderstood. You identified
 18 three things for me. And you said if you had to do
 19 them for people other than Kathy, that constituted
 20 discrimination?
 21 A. I didn't say that I was pleased with doing
 22 them for Kathy, and I didn't say it was discrimination
 23 by her telling the other people that they could do --
 24 you know, things for me. I felt overall Kathy's
 25 manner towards me in not allowing me to be promoted,

122

1 in giving me inferior work to do with my education was
 2 discriminating.
 3 Q. Okay. Let me --
 4 A. She denied me a promotion and then retaliated
 5 against me, and that's why I'm here.
 6 Q. Okay. Ms. Rosetsky, did you consider it
 7 discrimination to fix typos or copy or punch holes if
 8 Kathy asked you to do it for her, for Ms. Holtzman?
 9 A. Did I consider it? Not really direct
 10 discrimination. She discriminated against me by not
 11 allowing me to be promoted and telling the people that
 12 I would have been working for not to hire me and then
 13 retaliating against me in a very vicious manner.
 14 Q. Okay. Listen. I'm going to ask a question.
 15 I know this is hard because I know you have a lot
 16 vented up that you want to talk about too.
 17 A. Uh-huh.
 18 Q. But I'm going to ask you really to try to
 19 answer my question. Okay? When your attorney asks
 20 you questions, you're going to talk to your heart's
 21 delight. But when I ask you, I'm going to ask you to
 22 try to answer what I'm specifically asking. Okay?
 23 A. I thought that I was answering what you were
 24 asking.
 25 Q. All right. You also said that it was

123

1 discrimination when you were denied a promotion for
 2 which you were qualified and the position was
 3 subsequently given to a younger employee. Can you
 4 tell me exactly what you're referring to there?
 5 A. I don't know if that position was going to
 6 another employee. But a young employee, who was there
 7 the same amount of time as me, was promoted into a
 8 manager position above the position that I was
 9 applying for.
 10 Q. All right. First I want to know --
 11 A. Well, that's not completely accurate. That's
 12 why I'm correcting it.
 13 Q. All right. So you're saying this is not true:
 14 that you were denied a promotion that was given to
 15 somebody younger? That's not true?
 16 MR. JENNINGS: Objection to form.
 17 THE WITNESS: I don't know who was put
 18 into that position at this point.
 19 BY MS. KIVITZ:
 20 Q. All right. Let's do it this way. What
 21 position are you talking about there?
 22 A. It was Test Development Associate, and it was
 23 advertised as I/II -- I'm not sure of the difference
 24 between the two -- which is the same title that I was
 25 originally hired in as a temp.

124

1 Q. Okay. And when are you suggesting that
2 position was available?

3 A. When was it available? I saw it on the Web
4 site in -- it was either September or October of 2006.

5 Q. Okay. And you're saying that there was this
6 Test Development Associate I/II position available.
7 Did you apply for that position?

8 A. Yes.

9 Q. Okay. Now, I had seen two jobs you applied
10 for.

11 A. Uh-huh.

12 Q. One of them was for Special Projects?

13 A. It's called "Test Development" -- okay. I'm
14 wrong. It's Test Development Associate for Special
15 Projects. It might have been. I don't remember the
16 exact title except for that it was Test Development
17 Associate.

18 Q. Okay.

19 A. And it was either I or II or Special Projects.
20 I think it was Special Projects. You're right.

21 Q. So you are talking in 18(b) about your
22 application to be a Test Development Special Projects
23 Associate?

24 A. Test Development Associate for Special
25 Projects.

125

1 Q. Okay. Am I correct that you withdrew that
2 application?

3 A. After I heard Kathy telling people -- she was
4 sitting right there -- the people I'd been working for
5 not to feel that they should hire me. She was telling
6 them, "Don't hire her."

7 Q. Okay.

8 A. So instead of being humiliated and having to
9 interview because the people that were promoted, such
10 as Kieran Hussie and Krista -- I mean, Kieran didn't
11 even have to interview. He was just promoted with no
12 interview.

13 Q. Okay. I'm going to come back to this. This
14 is my question now, though.

15 A. Okay. Yes, I withdrew it. I withdrew my
16 application after I knew that Kathy was not going to
17 allow them to hire me because I heard her.

18 Q. Who did you give your application to?

19 A. I gave it to -- I think I sent it to Human
20 Resources.

21 Q. And who was the supervisor for that position?

22 A. Well, it wasn't clear. It was either -- it
23 might have been -- they were promoting Kieran into
24 manager, and I think they -- and the current manager
25 was Kathy Angelucci. And I think they were going to

126

1 upgrade her to something else. So I don't know
2 whether I would have been working directly for Kieran
3 or for Kathy Angelucci.

4 Q. Okay. Now, you say the position was
5 subsequently given to a younger employee. Who?

6 A. No, that's not the position that was given to
7 a younger employee. I don't know who it was given to.
8 That's what I'm telling you. I know that Kieran got
9 that position right before I was there as he was a
10 Test Development Associate for Special Projects.

11 Then he was there the same amount of
12 time as me. He was being promoted into manager.
13 That's what I'm telling you. He was promoted, and I
14 was actually applying for his -- I guess it would have
15 been his position.

16 Q. All right. So what you're actually saying is
17 the person who had had that position was promoted?

18 A. He was promoted, yes, into manager, I think.
19 He was supposed to be.

20 Q. But you are not alleging that the Special
21 Projects Test Development Associate was given to a
22 younger employee?

23 MR. JENNINGS: Objection to form.

24 THE WITNESS: I don't know that.

25 BY MS. KIVITZ:

127

1 Q. Okay.

2 A. I don't know if they ever hired anyone
3 actually.

4 Q. Okay.

5 A. All that I know is that she wouldn't let me
6 move into the position.

7 Q. Okay. So that allegation is not true in the
8 sense that you can't say that the position was given
9 to a younger employee?

10 A. Right.

11 Q. Whether it was or wasn't, you don't know?

12 A. Right.

13 MR. JENNINGS: Objection to form.

14 BY MS. KIVITZ:

15 Q. Now, you also allege, as evidencing a pattern
16 of discrimination, that you were given the smallest
17 possible salary increase.

18 A. That was actually retaliation.

19 Q. Okay. What form of retaliation?

20 MR. JENNINGS: Objection to form.

21 THE WITNESS: What do you mean, "What
22 form of retaliation?"

23 BY MS. KIVITZ:

24 Q. Why was that retaliation?

25 A. That she took my raise away?

128

1 Q. That who took your raise away?

2 A. Kathy Holtzman.

3 Q. Okay. Now, what raise do you believe you were

4 getting that was taken away?

5 A. I was an excellent employee. I should have

6 gotten the top at least. She had no complaints about

7 me. As a matter of fact, Kathy liked good and cheap.

8 So she had someone with a master's degree that was

9 really good, that was really cheap, and that's why I

10 was in the position that I was in because I was older

11 and I was good and I was very reliable. And she liked

12 that, and she wanted to keep me in that position.

13 Q. Okay. So you felt you should have been given

14 the top raise. But no one ever told you you were

15 getting the top raise and it was taken away; correct?

16 A. Yes.

17 MR. JENNINGS: Objection to form.

18 THE WITNESS: I was told because I got

19 my evaluation, and it was really, really poor. So

20 when you get a poor evaluation, there's raises that go

21 along with that. So I knew that she was giving me

22 1 percent.

23 And Barbara Davidson told me. I said,

24 "Barbara, am I going to get a raise?"

25 She said, "She's only giving you

129

1 1 percent."

2 BY MS. KIVITZ:

3 Q. Okay. Now, your evaluation was satisfactory,

4 was it not?

5 A. Whatever. I don't know. I don't remember

6 what the grades were.

7 Q. Do you remember what Kathy Holtzman said as to

8 why it was satisfactory and not unsatisfactory?

9 MR. JENNINGS: Objection to form.

10 THE WITNESS: Whatever she said was

11 after I complained about her to HR, and it was totally

12 untrue. Every single thing on there she fabricated.

13 BY MS. KIVITZ:

14 Q. Okay. Do you remember what she said as to why

15 it was satisfactory --

16 A. She said it took too long to build a database,

17 which she didn't even want me to build but, you know,

18 told me I could keep working on it. She knew nothing

19 about databases. As a matter of fact, I told her to

20 go down to Debbie Brown, who was the Microsoft Access

21 expert, because I had spoken to Debbie on the length

22 of time it was taking.

23 And she said, "You did it in a

24 reasonable -- more than a reasonable amount of time."

25 Q. Okay. Is that your understanding of why she

130

1 told you your evaluation was satisfactory --

2 A. You can read my evaluation --

3 MR. JENNINGS: Objection to form.

4 THE WITNESS: Why don't you just read it

5 to me? You have it.

6 BY MS. KIVITZ:

7 Q. Did you not meet with Kathy Holtzman at the

8 time you received the end-of-year performance

9 evaluation?

10 A. No. I met with her with Barbara Davidson. I

11 didn't meet with Kathy alone in her office like

12 everyone else did. She had me come down to HR and had

13 Barbara Davidson there.

14 Q. Okay. And when you received your evaluation,

15 there was also discussion; is that correct?

16 A. Yes.

17 Q. Tell me what the process was.

18 A. I went down to Barbara Davidson's office, and

19 Kathy was there, and Barbara was there. And we were

20 just talking. I was talking about, you know, what

21 happened with when I asked for the promotion or

22 whatever. Then Kathy just gave me the evaluation. I

23 read it, and it was, like, disgraceful, and it was a

24 bunch of lies.

25 Q. All right. What did you do in response?

131

1 A. Nothing.

2 What did I do in response?

3 Q. Did you make comments?

4 A. Oh, I e-mailed Barbara. I was pissed off as

5 anybody would be. You know, everything was after

6 October. After I went down to complain about her the

7 first time, she started doing all the things that

8 everybody said she would do. She started manipulating

9 everybody, telling them not to talk to me. She was

10 nasty.

11 You know, she started asking me to

12 account -- doing things that nobody else had to do, to

13 account for every second of my time of what I was

14 doing when. And none of the other employees had to do

15 this.

16 She told people not to talk to me. I

17 was walking down the hallway, and people that had

18 always talked to me, been polite, that I was friendly

19 with -- none of them would even pick their heads up.

20 They were just walking right by me. And I knew,

21 because Faith had told me that she would do that, that

22 Kathy had done that.

23 Q. All right. Okay. Am I correct that, if your

24 evaluation had been unsatisfactory, there would have

25 been no raise involved with it?

132

1 MR. JENNINGS: Objection to form.

2 THE WITNESS: I have no idea.

3 BY MS. KIVITZ:

4 Q. Okay. Do you know what an unsatisfactory

5 evaluation results in promotionwise?

6 A. No.

7 Q. Raisewise?

8 A. No. All I know is there is a minimum and a

9 maximum. I mean, I suppose you could get zero. I

10 don't know if you can get zero. I guess it was --

11 1 percent was probably the lowest.

12 Q. Okay. But you did not get zero, correct?

13 A. I don't remember. I think I got 1 percent. I

14 don't remember if I was there long enough to even get

15 it.

16 Q. Do you remember if it was 1 percent or

17 2 percent?

18 A. It was definitely not 2 percent. Barbara told

19 me it was going to be 1 percent. This is what Barbara

20 Davidson, the Director, told me. "You're only going

21 to get 1 percent." That's what she told me.

22 Q. Okay.

23 A. After Kathy left the room, I was sitting

24 there, talking with Barbara.

25 Q. You said other employees over the age of forty

133

1 were also denied promotions by Ms. Holtzman?

2 A. Yes.

3 Q. Okay. Can you identify who you mean by that?

4 A. Debbie Shelmire and Faith Balsama had

5 repeatedly over the years, even before I was there,

6 tried to move into other positions. And Faith

7 actually told me she went down to complain to HR. And

8 she said, "What do I have? Kathy slime on me, you

9 know, that I can't get out of this position because of

10 Kathy?"

11 So, you know, that was perceived by all

12 of us. We were the three older ladies that were all

13 hired in our forties, and we're all sitting there as

14 Kathy's flunkies that couldn't get out of these

15 positions.

16 Q. Okay.

17 A. And the only people that lasted were people --

18 she had three people in my position before me. And as

19 far as I know, two were fired -- three were fired.

20 One was a temp. Two were permanent. They were older

21 women.

22 Q. Okay. Are you referring to any other

23 employees over the age of forty denied promotions by

24 Ms. Holtzman other than Debbie Shelmire and Faith

25 Balsama?

134

1 A. I'm trying to think if there was anybody else.

2 No. Because they were the people that I had contact

3 with.

4 Q. Okay.

5 A. Or maybe -- who was demoted? What was her

6 name? Barbara -- what was her name? -- who was in the

7 position before me. She was treated really poorly

8 also. I'm not sure how old she was. She was older.

9 She went to work for another department. I can't

10 remember her name.

11 Q. Okay. Debbie Shelmire, Faith Balsama, and

12 Barbara all still work at the National Board?

13 A. I don't know. How would I know?

14 THE WITNESS: Do they work there?

15 I don't know. Why are you asking me

16 that?

17 BY MS. KIVITZ:

18 Q. You're not --

19 A. I don't talk to them.

20 Q. You have not had contact with them since you

21 left?

22 A. No.

23 Q. Okay.

24 A. Are you kidding me? They're scared to death

25 of Kathy.

135

1 Q. You said on October 18 you complained to
 2 Barbara Davidson, the Director of Human Resources?
 3 A. Whatever the date was I first went down.
 4 Sometime in October.
 5 Q. Was that the same meeting you have described
 6 to me concerning the edits and the timing and Kathy
 7 Holtzman being angry at Krista?
 8 A. I'm trying to remember. I went down. I don't
 9 know whether it was the same meeting where I
 10 complained. I said that I wanted to apply for a job.
 11 I actually went to Kathy Angelucci first. I e-mailed
 12 Kathy Angelucci, which I included in my Complaint I
 13 think.
 14 And I asked her, "Since you'll be the
 15 one that I think will be directly over this position,
 16 the Test Development Special Projects, you know, I'm
 17 interested in the position." I said, "Do you think I
 18 could be qualified and I could apply for it?"
 19 And she said, "I don't know anything
 20 about it. You'll have to ask Kathy Holtzman."
 21 And Kathy Holtzman e-mailed me back and
 22 said, "I don't have anything to do with it. You'll
 23 have to ask Kathy Angelucci." Now, everybody knows
 24 that Kathy Holtzman controls everything in there; so
 25 it was definitely Kathy Holtzman.

136

1 And then after that I asked Kathy
 2 Holtzman, and she said to me, "I really don't think at
 3 this time that you would be, you know, qualified for
 4 the position."
 5 And I said, "Why not? I learned all
 6 these other programs for you. I know Dream Weaver. I
 7 can do editing. I know about IT."
 8 She said, "I just don't feel that at
 9 this time." She says, "I will -- I'm going to move
 10 you as Kieran's assistant."
 11 I said --
 12 "You know, not a Test Development
 13 Associate but as Kieran's assistant. I can move you
 14 in to work with him, and then you can work your way
 15 up." So she was going to give me a lateral move.
 16 So I went down to HR, and, you know, I
 17 told them about it. They said, "Well, you can still
 18 apply."
 19 And I said, "Oh, well, I don't need her
 20 permission to apply?"
 21 And they said, "No, you don't."
 22 And I said, "But what are my chances?
 23 If she's already telling me and telling Kathy
 24 Angelucci you're hiring him, why should I bother?"
 25 And she said, "I'm just telling you that

137

1 you can apply without your supervisor's permission."
 2 So I applied. And then after I applied,
 3 I was sitting in my office, which is about from here
 4 to your seat, and she called in --
 5 MR. JENNINGS: Just about four or five
 6 feet?
 7 THE WITNESS: Yeah. Maybe a little bit
 8 further.
 9 And she called in Kathy Angelucci and
 10 Kieran Hussie. And they were discussing it in front
 11 of me. Like, she knew I could hear them. And she
 12 said, "Don't feel like you have to hire her. I don't
 13 feel she's really qualified."
 14 And then when they walked out of there,
 15 I walked over to Kieran. I said, "Was she telling you
 16 not to hire me?"
 17 And he said, "Yes, basically."
 18 I said, "Was she discouraging you from
 19 hiring me, Kieran?"
 20 And he said, "Yes."
 21 BY MS. KIVITZ:
 22 Q. Okay. Now, you also allege that on
 23 November 27, '06, you were terminated without good
 24 cause. I assume you meant '06, November 27, 2006?
 25 A. Yeah. It was November -- yeah. December 1

138

1 maybe. November 27, 2006. What did I say?
 2 Q. Well, the Complaint reads '07.
 3 A. Oh, no.
 4 Q. Okay. Now, you recall writing an e-mail to
 5 Kathy Holtzman before you were terminated in which you
 6 said you weren't going to do your job any longer at
 7 the salary which you had been hired?
 8 A. I said something along those lines but not
 9 exactly.
 10 Q. Okay. I'll pull it out when I get to it.
 11 A. Oh, I know what I said to her. When she was
 12 sitting with Barbara Davidson, she said in front of
 13 Barbara Davidson that I was not hired to build
 14 databases. And then she wanted me to build a database
 15 for --
 16 Q. Wait. Wait. Ms. Rosetsky --
 17 A. I'm trying to answer your question.
 18 Q. My question --
 19 A. What was contained in the e-mail? Why don't
 20 you show me the e-mail?
 21 Q. All right. I'm going to show it to you.
 22 A. Okay.
 23 Q. But all my question is is do you remember
 24 writing such an e-mail --
 25 A. Not in what you're saying.

139

1 Q. -- immediately before being terminated?

2 A. Not containing what you're saying.

3 Q. Okay. I will pull it out in fairness to you.

4 A. Okay.

5 Q. Okay. If you did write an e-mail in which you

6 refused to perform your job at the salary for which

7 you were hired, do you believe that would constitute

8 insubordination?

9 MR. JENNINGS: Objection to form.

10 THE WITNESS: No.

11 BY MS. KIVITZ:

12 Q. Okay.

13 A. Because she told me that I was not hired to

14 build databases and at the same time she asked me to

15 build a database in the same sentence. You know, she

16 asked me to continue building these sign-in databases.

17 While I was with Barbara Davidson, she told Barbara

18 that I was never hired to do databases.

19 So I said, "So if I wasn't hired -- why

20 are you asking me to do it?" And I was not being paid

21 on an IT scale. I mean, I was doing things at an IT

22 scale in my old age that they were being paid double

23 what I was being paid. And Kathy knew that; so she

24 was really taking advantage of me.

25 Q. Okay. Why don't we break for about ten

140

1 minutes, have a piece of pizza, and resume at

2 one o'clock.

3 (Lunch recess.)

4 BY MS. KIVITZ:

5 Q. Before going through some e-mails, I just want

6 to go revisit something you had said earlier. When

7 you were talking about leaving your employment at

8 Penn, you said that you had taken a thumb drive with

9 you. And you made a joke about, "Do you want to see

10 it?" or something like that?

11 A. No, that's not from Penn. Oh, yeah. No.

12 That was from Penn.

13 Q. Can you just tell me the circumstances of your

14 taking it and what it enabled you to do once you had

15 it?

16 A. The thumb drive was when I was developing the

17 database at my house. I worked on it at night. So

18 actually the copy that I did for Penn I do not have.

19 I only have something that I did that doesn't really

20 function off the network.

21 Q. Okay. When you left your employment, did you

22 return the thumb drive to Liz Bien?

23 A. It's my thumb drive. I bought it. They

24 didn't have thumb drives then. Actually it wasn't a

25 thumb drive. It was a CD.

141

1 Q. Okay.

2 A. And when you copy this database onto the CD,

3 you can't really do anything with it but look at it.

4 It's read only.

5 Q. Okay. Did the thumb drive enable you to

6 download materials that you had worked on --

7 A. There were no thumb drives invented then. It

8 was a CD only.

9 Q. Okay. You said, "Thumb drive." Believe me, I

10 didn't say that.

11 A. You're confusing Penn with the National Board.

12 I have my database from the National Board on my thumb

13 drive because I worked on it at home. And Kathy knew

14 that because she also allowed me to work on it through

15 Citrix, the Citrix system where I could log in from

16 home.

17 Q. Okay. And you have that database today;

18 correct?

19 A. Yes. But the slides on it are all obsolete

20 slides, though. It's really nothing that is secret.

21 MS. KIVITZ: Mr. Jennings, I'll talk to

22 you after the deposition about the return of

23 proprietary materials.

24 THE WITNESS: There's no way to return

25 it. It's my thumb drive. I bought it. There's

142

1 nothing to return.

2 MS. KIVITZ: I think that, when the

3 deposition is over, we should speak for a minute.

4 MR. JENNINGS: All right. I'll discuss

5 it with you.

6 BY MS. KIVITZ:

7 Q. All right. I want to just ask you about a few

8 responses you gave in discovery in this matter.

9 A. Uh-huh.

10 Q. I guess this goes again to the Complaint

11 allegations. In Interrogatory No. 9 what we received

12 from you was that you were denied a promotion and

13 asserts on information and belief the position was

14 given to a younger employee. Now, I just went through

15 the Complaint with you, and you said, "I don't know

16 who got that position."

17 A. Right.

18 Q. So is this Interrogatory Answer similarly

19 incorrect?

20 A. What Interrogatory?

21 Q. It says that plaintiff was denied a promotion

22 and asserts on information and belief --

23 A. Yes. I don't know who got the job. As a

24 matter of fact, they may have hired someone, and then

25 I just saw the job advertised again. I don't know if

143

1 it was the same job, but it looks like it.

2 Q. Okay. I just want to be clear, though, that

3 that statement is incorrect?

4 A. Yes.

5 MR. JENNINGS: Objection to form.

6 THE WITNESS: It's an error.

7 BY MS. KIVITZ:

8 Q. Okay.

9 A. I don't really know. What I was talking about

10 was Kieran Hussie, who's younger than me and had been

11 there the same amount of time with less education and

12 was promoted.

13 Q. Okay. In Interrogatory No. 10 you said:

14 "Plaintiff's salary increase was

15 actually removed. She received 1 percent out

16 of 10 percent, which plaintiff asserts was

17 certainly the smallest salary increase of

18 any one of her counterparts."

19 I just want to be clear on a couple of

20 things. You didn't receive any salary increase

21 because the salary increase would have started after

22 you had already been terminated; correct?

23 A. Right. But that was the proposed salary

24 increase according to Barbara Davidson.

25 Q. Okay. Did you look at any information which

144

1 would correlate a finding of satisfactory on your

2 performance evaluation to a percentage increase?

3 A. Say this again? Did I correlate....

4 Q. What are you relying on? You had said that

5 there are --

6 A. Relying on Barbara Davidson.

7 Q. Okay. You're aware, though, that there are

8 posted salary increase percentages which are tied into

9 the performance evaluation?

10 A. According to Barbara, yes.

11 Q. Okay. Are you aware that the salary increase

12 for a satisfactory is actually 2 percent, not

13 1 percent?

14 A. I was told I was getting 1 percent. I don't

15 know whatever manipulation the Board wants to do with

16 that. I was just told it was 1 percent. And, you

17 know, relative to what the salary increases could have

18 been and how hard I worked and how good of an employee

19 I was, it was retaliation because Faith told me she

20 got the highest. And I can tell you Faith did not

21 work as hard as I did.

22 Q. Okay. And Faith also was how old?

23 A. Faith's older than me.

24 Q. Okay. And she got the highest salary

25 increase?

145

1 A. Yes.

2 MR. JENNINGS: Objection to form.

3 BY MS. KIVITZ:

4 Q. What about Debbie Shelmire, if you know?

5 A. Debbie told me -- now, this is hearsay, you

6 know -- that she did not get good salary increases

7 until Kathy was trying to rally people onto her side.

8 And the first really good raise that she ever got was

9 when I went down to HR and all this started. All of a

10 sudden Kathy started being really nice to Debbie.

11 Q. So what was Debbie's percentage increase, if

12 you know?

13 MR. JENNINGS: Objection to form.

14 THE WITNESS: She didn't tell me, but

15 she was really happy because she'd gotten low

16 increases before.

17 BY MS. KIVITZ:

18 Q. Okay. So it's your testimony that your not

19 getting along with Kathy Holtzman somehow bolstered

20 Debbie Shelmire's status in the Department?

21 MR. JENNINGS: Objection to form.

22 You can answer.

23 THE WITNESS: According to Debbie,

24 that's what Debbie thought.

25 BY MS. KIVITZ:

146

1 Q. Did she say that to you?

2 A. Yes. She said, "I guess she's trying to rally

3 support for herself."

4 Q. Okay. Now, did it make you angry that Kathy

5 Holtzman gave you a poor review and you felt that she

6 had no technology skills herself?

7 MR. JENNINGS: Objection to form.

8 THE WITNESS: I told her that she was

9 unqualified to review the building of the database

10 because she knew nothing about it. And I asked her to

11 go to IT and talk with Debbie Brown, who I often

12 discussed the database with, on how long it takes to

13 do these things because they look simple on the

14 surface. But unless you ever built one, you would

15 never know what it took to build one.

16 BY MS. KIVITZ:

17 Q. In what other areas did you feel that Kathy

18 Holtzman was unqualified to review your work?

19 A. Just with the IT I would say basically.

20 Q. Did you feel that she was qualified to review

21 your interactions with others, the quality of your

22 interpersonal communications with co-workers?

23 A. No.

24 Q. Okay. Why was she not qualified to evaluate

25 your performance communicating with others?

147

1 A. Because she was getting executive coaching
2 because her personality had been so discriminating and
3 difficult with other people that it would be, like,
4 you know, the pot calling the kettle black. You know,
5 I didn't feel that she was a good judge of character
6 at all at that point.

7 Q. Okay. But as your supervisor, did she have
8 the skills necessary to determine whether you were
9 getting along with other co-workers?

10 MR. JENNINGS: Objection to form.

11 THE WITNESS: Well, up until that point,
12 yeah. She gave me a good review. I mean, I had a
13 mid-year review, and I got a great review.

14 BY MS. KIVITZ:

15 Q. Okay. What was your mid-year review?

16 A. It was good.

17 Q. Was there any criticism that you received?

18 A. I don't remember. I'm trying to remember.

19 You have it here somewhere. Why don't you just pull
20 it out, and we'll see?

21 Q. Did you receive any criticism in terms of your
22 ability to get along with other people?

23 A. I don't think so. I don't remember. It was a
24 good review.

25 Q. Do you remember which people evaluated you?

148

1 A. Yeah. Usually you're supposed to pick your
2 own, but Kathy picked them for me. Krista Allbee,
3 Debbie. You know what? I don't remember all of them.
4 She maybe used someone in IT that she pitted me
5 against. It was -- who was it? It was either Debbie
6 or the Asian girl. I'm trying to remember her name.

7 I don't remember the other girl's --
8 Leslie. It was either Leslie or Debbie. I'm not sure
9 which one.

10 Q. Okay. Anybody else that you recall?

11 A. I think there were five or six people. I
12 don't remember who the others were.

13 Q. Okay.

14 A. That might have been it.

15 Q. How was the mid-year evaluation presented to
16 you?

17 A. Did she e-mail it to me? I'm trying to
18 remember. I think you just go on line and read it.
19 They have this system. I'm trying to remember. I
20 think that's what we did. We just read it on line.

21 Q. Was it a summary of people's comments, or did
22 you go on line and read the comments that each person
23 had offered?

24 A. You could see the comments, but you couldn't
25 see who wrote them.

149

1 Q. Okay. Did you feel that there was anything in
2 these comments that was critical of your ability to
3 get along with others?

4 A. There were some issues, but they were caused
5 by Kathy because Kathy had an ongoing battle with the
6 IT Department. And she put me in the middle of it,
7 and she used to make me write e-mails that I didn't
8 want to write to people and say things that I didn't
9 want to write. So those people took it as, you know,
10 that it was me, and it was Kathy.

11 Q. Okay. So, first of all, can you tell me who
12 the -- what the issues were?

13 A. It was either Leslie or Debbie.

14 Q. All right. And do you remember --

15 A. Actually I got along with Debbie pretty well
16 usually, but I don't know. A lot of manipulation was
17 going on with this system because I was supposed to --

18 Q. Remember I asked you to just listen to the
19 question first?

20 Okay. Do you remember what the issues
21 were that came up in your mid-year evaluation and from
22 who? the specific people who raised them?

23 A. No. But you can see them on the network.
24 They probably have them.

25 Q. You don't remember anything now?

150

1 A. I don't have it memorized. I just told you.
2 Now you're asking me the same question again. I just
3 told you there may have been an issue with Leslie or
4 Debbie. You're supposed to pick your own people to
5 review you, but in my case Kathy picked people.

6 And Kathy's very manipulative. She
7 manipulates everything in the system to her advantage.
8 So she was thinking ahead just in case she didn't want
9 me to be proud of myself. So all the people that she
10 had pitted me against in the IT Department -- she went
11 and had someone -- and actually someone from the IT
12 team was not supposed to review me.

13 It was supposed to be in the Department.
14 And she had me -- this is what HR told me. And she
15 had someone in IT review me, and they didn't even work
16 with me.

17 Q. Didn't you just tell me you couldn't see, when
18 you went on line, who had given you the evaluation?

19 A. Right.

20 Q. Just what was written?

21 A. Right. But you could see who they were, and
22 you could see the comments.

23 Q. What do you mean, "You could see who they
24 were"?

25 A. You could see five names and five comments,

151

1 but you couldn't see -- they weren't matched up. But,
2 you know, I could tell who wrote what because somebody
3 wrote something about computers or whatever. But it
4 wasn't that bad. You know, it was still a good
5 evaluation.

6 Q. Was it your testimony that you only remember
7 one criticism of your ability to get along with others
8 out of these five?

9 A. Maybe it was Krista and someone from IT.
10 Krista, who is Kathy's patsy. That's the young,
11 thirty-year-old girl who went from being a production
12 assistant to being a director in five years.

13 Q. Okay.

14 A. She was Kathy's patsy. These people are all,
15 like, afraid for their jobs because of Kathy because
16 she has been known -- there was another lawsuit
17 concerning somebody else that was having problems with
18 Kathy.

19 Q. What did Krista criticize about you, if you
20 recall?

21 A. Krista? Whatever Kathy probably told her to
22 say. I'm not really sure.

23 Q. Do you remember what you read at the time?

24 A. It wasn't that bad. None of that was bad. I
25 mean, I got basically a good evaluation.

152

1 Q. Okay. Do you remember the criticism part?

2 A. No, I don't.

3 Q. Okay. Did it have to do, at least as to
4 Krista, with your ability to get along with co-workers
5 or others?

6 MR. JENNINGS: Objection to form.

7 THE WITNESS: I don't remember. But I
8 don't put much merit to it because it's all Kathy
9 talking.

10 BY MS. KIVITZ:

11 Q. Okay.

12 A. Nobody says anything without Kathy telling
13 them to say it.

14 Q. What about the IT criticism? Did that have to
15 do --

16 MS. KIVITZ: Can we go off the record
17 for a second.

18 (Discussion was held off the record.)

19 BY MS. KIVITZ:

20 Q. Now, the IT criticism -- do you remember what
21 that was?

22 A. Not exactly. No. Why don't you just pull it
23 out? You have it. I don't see why you're asking me.
24 It's here somewhere.

25 Q. Because I want to know your perception of what

153

1 the evaluations are.

2 A. But I don't remember. You're talking two
3 years ago of something that -- you know, basically I
4 had a good evaluation, and there were some comments
5 from people that -- to my feeling, all the -- any
6 negative comments were created by Kathy Holtzman.

7 I mean, if you take a look at her
8 personnel file, I'm sure there's, like, a stack of
9 complaints against her because I know. People told me
10 that they complained about her, and they told me that
11 she was going to do this, if I caused any problems,
12 that she was going to do this.

13 Q. Okay. Is it your recollection that two out of
14 the five evaluations contained criticism and no
15 others?

16 A. I think so. Yeah. It was just Krista and
17 maybe the IT person, but they weren't that bad of a
18 criticism. They were, you know -- there were some
19 compliments in there.

20 Q. Okay. Now, you also alleged that Kieran
21 Hussie was being paid \$6,000 more than you and he --
22 you had more education and comparable technology
23 skills?

24 A. Yes.

25 Q. So let me start by saying do you believe your

154

1 technology skills were comparable to Kieran Hussie?

2 A. Yes. I knew different things but....

3 Q. Were there things that Kieran Hussie knew that
4 perhaps you did not know?

5 MR. JENNINGS: Objection to form.

6 THE WITNESS: At the time, yeah. But it
7 was basically Dream Weaver. And, you know, they had
8 asked me to learn so many applications that, you know,
9 she knew that I could have just picked that up and
10 started using it.

11 BY MS. KIVITZ:

12 Q. Okay. Other than Dream Weaver were there
13 other technological skills that Kieran Hussie had that
14 you did not?

15 MR. JENNINGS: Objection to form.

16 THE WITNESS: I really don't know, but I
17 would say no. I probably have more skills than him.

18 BY MS. KIVITZ:

19 Q. Okay. You said, "Probably." Is that because
20 you don't know for sure what his technological skills
21 are?

22 A. Well, you're asking me a question where, you
23 know, you're asking me to suppose that I do know, or
24 you wouldn't be asking me the question. I mean,
25 you're asking me if Kieran has more skills than me.

155

1 That's too broad of a question to answer and something
2 that I would not know.

3 He may use an application at home that I
4 don't know about, and I may use things -- you know, he
5 explained to me, you know, one time when I was talking
6 to him, that, you know, databases were really
7 difficult. He saw what I had done. He was impressed
8 with it.

9 And, you know, databases are a lot
10 harder to do than Web pages. I can tell you that. So
11 that's the best way. I don't know -- I know Kieran
12 doesn't know how to do databases.

13 Q. But when you said you have the same
14 technological skills --

15 A. You asked me, "Comparable," and I said,
16 "Comparable," which means I'm at a level at least of
17 Kieran. And I am very capable of learning very easily
18 what Kieran knows, but he probably would have trouble
19 learning what I know.

20 Q. Now, do you remember completing a harassment
21 questionnaire for the E.E.O.C., which your attorney
22 sent to us?

23 A. Yes.

24 Q. Okay. In that questionnaire you claim that
25 you were told by the Director of Human Resources that

156

1 you had to do whatever your supervisor demanded even
2 if she was being unethical or, quote, they would take
3 further action.

4 A. Yes.

5 Q. Can you tell me what you're talking about
6 there?

7 A. Kathy asked me to write e-mails about people
8 that I really didn't want to write, people that were
9 involved with the IT Department, because Kathy thinks
10 that work is a political game. And she did not want
11 to have people like Erik Soijka or Barbara Scaramalino
12 (phonetic) encroaching on her authority in Test
13 Development.

14 And the more technology that you brought
15 into Test Development, there was a big issue with
16 Microsoft Project because there's something called
17 "active directory," where they can actually control
18 how much access you have to things on there and your
19 ability to get information.

20 So at the time -- even before I got
21 there, someone by the name of Joy Bouldin had this
22 same issue with Kathy, and I think that Kathy fired
23 her. Kathy didn't understand how to use Microsoft
24 Project and that you had to use it in a certain
25 manner.

157

1 So she was pitting me against IT and
2 getting me to write e-mails about Barbara Scaramalino
3 and Erik Soijka, who, I think, was Barbara's boss, you
4 know, because she wanted to get rid of Microsoft
5 Project. She didn't want to use it.

6 Q. Okay. Can I ask one question before you
7 finish that?

8 A. Uh-huh.

9 Q. Isn't it true that, before you wrote a memo or
10 corresponded back with IT, that you had gotten an
11 e-mail from Erik Soijka that you described as
12 "juvenile and nauseating" and sent it to Kathy
13 Holtzman?

14 A. No. I sent it to -- I made those statements
15 to Kathy, not to Erik Soijka.

16 Q. Correct.

17 A. Right.

18 Q. But isn't it true that his e-mail to you is
19 what prompted your opinion that his e-mail was
20 nauseating and juvenile --

21 A. Right. That was when she had --

22 Q. -- and you sent that to Kathy Holtzman?

23 A. Right. That was after -- so what? That was
24 after she already pitted me against him and had me go
25 up there.

158

1 Q. Okay.

2 A. She wasn't even there, and she got really
3 pissed off because I went up to his office without
4 her. And then he sent me an e-mail that aggravated
5 me.

6 Q. Okay.

7 A. I'm not the first person that she put in
8 between IT and Test Development. I'm, like, the
9 third.

10 Q. But you took Erik on without Kathy Holtzman?

11 A. No.

12 Q. You decided to go there by yourself?

13 A. No, no, no, no, no, no. And I have an e-mail
14 attesting to this. What happened was Barbara
15 Scaramalino, when Kathy was in Europe, came to my desk
16 and said, "I want you to come upstairs with me now and
17 meet with Erik." I didn't know she was coming, and so
18 my supervisor wasn't there; so I went.

19 And Kathy got really pissed off. And
20 when she came back, she was -- like, she wrote me an
21 e-mail. She was in Florida. She wrote me an e-mail
22 saying, "I'm really upset that you did that. Erik
23 Soijka has a way of twisting things and making them
24 our fault." And that's exactly what's in the e-mail.

25 Q. Okay. I've seen it. But I just wanted to ask

159

1 you isn't it true --

2 A. I didn't --

3 Q. Isn't it true that you complained to her about

4 Barbara coming to your desk, and you also complained

5 to her about Erik's e-mail, finding it nauseating and

6 juvenile?

7 A. No, I did not.

8 MR. JENNINGS: Objection to form.

9 THE WITNESS: I did not complain to her

10 about Barbara. Actually I wrote on the end of my

11 e-mail that I really feel that Barbara was trying to

12 be diplomatic about the situation. I wasn't upset

13 with Barbara.

14 We kind of were sparring at my desk, but

15 we were on good terms until, you know, Kathy had me

16 write a letter about --

17 And she wrote the letter. I mean -- and

18 I have an e-mail attesting to that.

19 -- against Barbara Scaramalino. So

20 Kathy was doing a lot of unethical things and forcing

21 people to say things about people.

22 Q. Ms. Rosetsky, didn't you complain that, when

23 Barbara came to your desk, it was embarrassing, and

24 other co-workers who were nearby could hear her?

25 Weren't you upset by that at the time?

161

1 told Kathy about it?

2 A. No. Kathy was egging me on, and she was,

3 like, behind the whole thing, the whole thing from the

4 beginning. Even before I got there, she wanted to

5 sabotage Microsoft Project. And I spent a lot of time

6 setting up all these Projects, and all I did was get a

7 lot of flak from Kathy that it wasn't working right.

8 People weren't using it.

9 And I said, "Well, if you let me tell

10 them that they have to use it, let me train people" --

11 she never let me do that.

12 Q. All right.

13 A. She never let me go forward with actually

14 getting --

15 Q. Okay.

16 A. -- people to use it appropriately. And she

17 didn't understand how it had to be used --

18 Q. All right.

19 A. -- although IT understood how it had to be

20 used.

21 Q. Let me go back to a question. Okay?

22 A. Uh-huh.

23 Q. When you told the Director of Human Resources

24 that Kathy Holtzman was being unethical, were you

25 referring to Kathy Holtzman telling you to prepare a

160

1 MR. JENNINGS: Objection to form.

2 THE WITNESS: Actually Kathy said to me

3 that she heard through the grapevine that Barbara had

4 come to my desk and that she was loud and that

5 everybody heard us. That was Kathy saying that, not

6 me.

7 BY MS. KIVITZ:

8 Q. Okay. Was your reaction that you were pleased

9 that Barbara had done that?

10 A. I wasn't that upset until Kathy got really

11 angry. At first I didn't really see it as that bad of

12 a thing, and I was kind of glad to have kind of gotten

13 everything out in the open because, if Kathy was

14 there, it would have gone a different -- she probably

15 wouldn't have allowed me to talk to her.

16 Q. What about Erik Soijka's e-mail to you that

17 caused you to write to Kathy and to be upset with him?

18 A. What about the e-mail where --

19 MR. JENNINGS: Objection to form.

20 THE WITNESS: -- I had offered him some

21 information that I found on the Internet and he said

22 he didn't --

23 BY MS. KIVITZ:

24 Q. In other words, did Kathy prompt you to be

25 angry with Erik, or were you angry with Erik and you

162

1 memo about Barbara and Erik?

2 A. That was one of the things, yeah. I really

3 didn't feel -- you know, I thought Barbara was

4 basically trying to be diplomatic. And Kathy said,

5 "Oh, no. You have to tell -- you know, put down a

6 tone of voice and put down, you know, what actually

7 happened. You have to cover -- you know, basically

8 cover your ass," and all this stuff.

9 Q. Was there anything else you were referring to

10 by her unethical conduct?

11 A. Besides her asking me to be manipulative and

12 write things about people I didn't really feel, that

13 was basically unethical enough.

14 Q. All right.

15 A. I'm not going to commit to saying there was

16 nothing else. But at this point that's what comes to

17 my mind right now.

18 Q. All right. Now, this issue with Erik and

19 Barbara -- this was in April, 2006; correct?

20 A. It was ongoing.

21 Q. Why did you wait until October to go to the

22 Director of Human Resources if Kathy Holtzman told you

23 to do something you considered unethical in April of

24 '06?

25 A. Because that's not what I went to Human